

TRANSCRIBED FROM DIGITAL RECORDING

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
) Case No. 2:20-mj-00221-DJA-1
Plaintiff,)
) Las Vegas, Nevada
vs.) April 23, 2020
) Courtroom 6B
LOUIS DAMATO,)
)
) Recording method:
Defendant.) Liberty/CRD
) 10:07 a.m. - 11:41 a.m.
-----) REVOCATION OF PRETRIAL RELEASE,
MORNING SESSION

CERTIFIED COPY

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE BRENDA N. WEKSLER
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

APPEARANCES:

For the Government (Via Videoconference):

NICHOLAS DICKINSON, AUSA
UNITED STATES ATTORNEY'S OFFICE
501 Las Vegas Boulevard South, Suite 1100
Las Vegas, Nevada 89101
(702) 388-6336

(Appearances continued on page 2.)

Recorded by: Jeff Miller

Transcribed by: Amber M. McClane, RPR, CRR, CCR #914
United States District Court
333 Las Vegas Boulevard South, Room 1334
Las Vegas, Nevada 89101
(702) 384-0429 or AM@nvd.uscourts.gov

Proceedings recorded by electronic sound recording.
Transcript produced by mechanical stenography and computer.

TRANSCRIBED FROM DIGITAL RECORDING

1 APPEARANCES CONTINUED:

2 For the Defendant (Via Videoconference):

3 **REBECCA A. LEVY, AFPD**
4 *FEDERAL PUBLIC DEFENDER'S OFFICE*
5 *411 East Bonneville Avenue, Suite 250*
6 *Las Vegas, Nevada 89101*
7 *(702) 388-6577*

8 Also Present (Via Videoconference):

9 *Mariah Bassler-Wide, Pretrial Services*
10 *Alicia Coughlin, Pretrial Services*
11 *Sandra Bustos, Pretrial Services*
12 *Chief Security Officer Brandon Delaney*
13 *Clinical Supervisor Rebecca Smith*
14 *Medical Services Administrator Bonnie Holly*

15 Also present (In Person):

16 *Steven Carpenter, U.S. Marshal*

17 * * * * *

18 **I N D E X**

19 <u>Witnesses:</u>	<u>Page</u>
20 <u>SEARA JONES</u>	
21 <i>Direct Examination by Mr. Dickinson</i>	7
22 <i>Cross-Examination by Ms. Levy</i>	21
23 <u>STEVEN CARPENTER</u>	
24 <i>Examination by the Court</i>	54
25 <i>Examination by Ms. Levy</i>	59

TRANSCRIBED FROM DIGITAL RECORDING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25***E X H I B I T S***

<u>EXHIBIT NO.:</u>	<u>OFFERED</u>	<u>RECEIVED</u>	<u>WITHDRAWN</u>
---------------------	----------------	-----------------	------------------

GOVERNMENT

1 (sealed)	15	15	
2 (sealed)	13	13	
3	9	10	

* * * * *

TRANSCRIBED FROM DIGITAL RECORDING

1 LAS VEGAS, NEVADA; THURSDAY, APRIL 23, 2020; 10:07 A.M.

2 --o0o--

3 P R O C E E D I N G S

4 **COURTROOM ADMINISTRATOR:** Good morning, Your Honor.

5 We are now calling the revocation of pretrial release
6 proceedings in the matter of United States of America versus
7 Louis Damato. The case number is 2:20-mj-0221-DJA.

8 Beginning with Government counsel, Counsel, please
9 state your names for the record.

10 **MR. DICKINSON:** Good morning, Your Honor. Nicholas
11 Dickinson for the United States.

12 **THE COURT:** Good morning.

13 **COURTROOM ADMINISTRATOR:** And defense counsel?

14 **MS. LEVY:** Rebecca Levy for Mr. Damato.

15 **THE COURT:** Good morning.

16 **MS. LEVY:** Good morning, Your Honor.

17 **THE COURT:** I see Pretrial Services is present as
18 well. I see Ms. Bustos.

19 **PRETRIAL SERVICES OFFICER:** Sandra Bustos,
20 Your Honor, from Pretrial Services. Good morning.

21 **THE COURT:** And who else do we have from Pretrial
22 Services?

23 **PRETRIAL SERVICES OFFICER:** Mariah Bassier-Wide with
24 Pretrial.

25 **THE COURT:** Good morning.

TRANSCRIBED FROM DIGITAL RECORDING

1 **PRETRIAL SERVICES OFFICER:** Alicia Coughlin from
2 Pretrial Services.

3 **THE COURT:** Good morning. And is this Agent Jones?

4 **SPECIAL AGENT JONES:** Yes, Your Honor, with the FBI.

5 **THE COURT:** Good morning. And I --

6 **SPECIAL AGENT JONES:** Good morning.

7 **THE COURT:** -- can't quite see Mr. Damato.

8 Mr. Damato, can you hear us okay?

9 **THE DEFENDANT:** Yes, I can, Your Honor.

10 **THE COURT:** All right. Good morning to you as well.

11 All right. So --

12 **THE DEFENDANT:** Good morning.

13 **THE COURT:** So that everybody knows, we have the
14 marshals here present in court as well. I've asked
15 Mr. Carpenter to make himself available. We have a lot of
16 people present. Most of you obviously are appearing by way of
17 videoconference. So to make sure the record is clear, I will
18 call on each of you when I need you to respond to certain
19 questions so that we're not talking over each other.

20 Let's see. So, Mr. Damato, the Court -- we are here
21 on Document Number 9 which is a petition to revoke pretrial
22 release. You are entitled to be appearing in person for this
23 hearing; however, based on COVID-19, we have implemented
24 different procedures which require that you consent to
25 appearing by way of videoconference. Do you consent to

TRANSCRIBED FROM DIGITAL RECORDING

1 appearing in this fashion?

2 **THE DEFENDANT:** I do, Your Honor.

3 **THE COURT:** And Ms. Levy, is this after having spoken
4 to you and with your advice?

5 **MS. LEVY:** Yes, Your Honor.

6 **THE COURT:** All right. Very well.

7 Okay. So as I said, we're here on a petition from
8 Pretrial Services. The allegation in question is whether
9 Mr. Damato failed to return to the Las Vegas Community
10 Corrections Center on March 29th after having been discharged
11 from Sunrise Hospital.

12 So with that in mind, Mr. Nickens [sic] --
13 Mr. Dickinson, this is your hearing.

14 **MR. DICKINSON:** Yes, Your Honor. My understanding is
15 that the defendant is not going to admit. So [indiscernible]
16 the Government would call FBI Special Agent Seara Jones.

17 **THE COURT:** Very well.

18 Agent Jones, let me place you under oath.

19 Do you swear or attest that all of the information
20 you're about to provide is the truth and nothing but the
21 truth?

22 **SPECIAL AGENT JONES:** Yes, Your Honor.

23 **THE COURT:** Very well. Mr. Dickinson, go ahead.
24
25

Seara Jones - Direct

DIRECT EXAMINATION

BY MR. DICKINSON:

Q. Special Agent Jones, just for the record, where do you work?

A. The FBI.

Q. And how long have you worked with the FBI?

A. I've been with the FBI for four years.

Q. And what unit are you currently assigned to?

A. The Las Vegas Joint Terrorism Task Force.

Q. And are you the case agent on the case of the United States versus Louis Damato?

A. Yeah, I am.

Q. And I want to direct your attention to the evening of Sunday, March 29th, 2020. Did you come to learn that a petition had been filed alleging that Mr. Damato had failed to return to the halfway house?

A. Yes.

Q. And did you also learn that a warrant had been issued by Magistrate Judge Nancy Koppe for his arrest?

A. Yes.

Q. [Indiscernible] case agent did you begin to essentially look for Mr. Damato?

A. Yes, I did.

Q. And taking your attention to the next day, Monday, March 30th, did you and other law enforcement effectuate an

Seara Jones - Direct

1 arrest of Mr. Damato?

2 **A.** Yes, we did.

3 Q. And approximately what time on Monday, March 30th did you
4 arrest Mr. Damato?

5 **A.** It was approximately 6:30 p.m.

6 Q. And where did you arrest him?

7 **A.** It was at the animal shelter, 655 Mojave, and the
8 intersection is -- I forget the intersection there. Bonanza
9 and Mojave.

10 Q. And how did you locate Mr. Damato at the animal shelter?

11 **A.** It was through a joint effort with the shelter. They
12 made us aware that he was coming to pick up his dogs.

13 Q. And did you see how Mr. Damato arrived at the shelter?

14 **A.** Yes, I did.

15 Q. And how did he arrive?

16 **A.** In a taxicab. It was a MedMen taxicab.

17 Q. What is a MedMen taxicab?

18 **A.** From my understanding, MedMen is a cannabis company here
19 in Las Vegas, and they have a taxi service.

20 Q. And after Mr. Damato was arrested, was him and his
21 property searched incident to arrest?

22 **A.** Yes.

23 Q. And I'll --

24 **THE COURT:** I'm sorry, Mr. Dickinson. I did not --
25 *(Simultaneous crosstalk.)*

Seara Jones - Direct

1 **BY MR. DICKINSON:**

2 Q. -- direct your --

3 **THE COURT:** -- hear -- Mr. Dickinson, can you just
4 repeat your last question?

5 **MR. DICKINSON:** Yes, Judge. I'll speak up.

6 **BY MR. DICKINSON:**

7 Q. After Mr. Damato was arrested, was his -- was he and his
8 property searched incident to arrest?

9 **A.** Yes.

10 Q. And in front of you there should be a document -- a
11 two-page document marked as Exhibit 3?

12 **A.** Yes.

13 Q. And do you recognize that?

14 **A.** Yes. It is a confirmation printout for the Embassy
15 Suites.

16 Q. And when's the first time you saw that, this document?

17 **A.** I first saw it when we placed him in custody.

18 Q. Placed who in custody?

19 **A.** Placed Louis Damato in custody.

20 Q. Was this on Mr. Damato's person?

21 **A.** Yes. It was in a backpack.

22 **MR. DICKINSON:** Your Honor, I'd move to admit
23 Government Exhibit 3.

24 *(Government Exhibit No. 3, offered.)*

25 **THE COURT:** Any objections, Ms. Levy?

Seara Jones - Direct

1 **MS. LEVY:** None, Your Honor. Thank you.

2 **THE COURT:** Exhibit 3 will be admitted.

3 *(Government Exhibit No. 3, received.)*

4 *[Indiscernible background noise]*

5 **BY MR. DICKINSON:**

6 Q. And for the record can you go through -- do you see
7 Mr. Damato's name [indiscernible]?

8 A. Yes. It's under room information, guest name.

9 *[Indiscernible background noise]*

10 **BY MR. DICKINSON:**

11 Q. And what days were this reservation made for?

12 A. The dates on the reservation was from March 30th to
13 April 6th of 2020.

14 Q. And Mr. Damato's name's on page 1 as guest name?

15 A. Yes.

16 Q. And if you go to page 2, Mr. Damato's name is there a
17 couple places?

18 A. Yes.

19 Q. And the address for this Embassy Suite where the
20 reservation is made?

21 A. Yes. 3600 Paradise Road.

22 Q. And at the top of the second page on the third line, it
23 shows a date, Sunday?

24 A. Yes.

25 Q. Can you just read that date and time [indiscernible]?

Seara Jones - Direct

1 **A.** The date is Sunday, March 29th, 2020, at 2:09 p.m.

2 **Q.** After Mr. Damato was arrested, did he make any statements
3 regarding why he was at the animal shelter?

4 **A.** Yes. He said that the judge told him that he only had --
5 had to stay in the facility for 24 hours and that he should be
6 able to pick up his dogs.

7 **Q.** And was that -- was that -- was Mr. Damato's statement in
8 response to formal questioning or was he just talking?

9 **A.** He was just talking.

10 **Q.** And was he talking a lot while your transportation of him
11 to the facility?

12 **A.** Yes, he --

13 *(Simultaneous crosstalk.)*

14 **MS. LEVY:** I'm going to object. Leading.

15 **THE COURT:** Overruled.

16 **BY MR. DICKINSON:**

17 **Q.** Can you just answer the question again? Was he talking a
18 lot throughout his transportation?

19 **A.** Yes, he was talking a lot.

20 **Q.** Now, during the -- did you come to learn in your
21 investigation that Mr. Damato had been [indiscernible] the
22 hospital prior to his arrest?

23 **A.** Yes. He had been at obviously Sunrise Hospital, and also
24 I learned later that he had visited a Southern Hills Hospital
25 facility as well.

Seara Jones - Direct

1 Q. And did you obtain the medical records from both those
2 facilities regarding Mr. Damato's stay at the hospital?

3 A. Yes, I did.

4 Q. If I can have you first look at Exhibit 2, which is in
5 front of you, and that's --

6 A. Yes.

7 Q. -- in the bottom right corner, Bates-numbered 13 through
8 [indiscernible].

9 A. Yes. Can you repeat that, Nick? I'm sorry.

10 Q. Bates numbers 13 through 47 [indiscernible] 37.

11 A. Yes.

12 Q. And --

13 THE COURT: One moment. I'm sorry. So Exhibit 2,
14 Bates 13 through 37?

15 MR. DICKINSON: No, Your Honor. I made a mistake
16 [indiscernible] 28.

17 THE COURT: Okay.

18 BY MR. DICKINSON:

19 Q. And what is Exhibit 2, Special Agent Jones?

20 A. That's a medical record from Sunrise Hospital.

21 Q. And for who?

22 A. It's for Louis Damato.

23 Q. And for what day?

24 A. It's for March 29th, 2020.

25 MR. DICKINSON: Your Honor, I'd move to admit

Seara Jones - Direct

1 Government Exhibit 2.

2 *(Government Exhibit No. 2, offered.)*

3 **THE COURT:** Any objections?

4 **MS. LEVY:** Your Honor, these are medical records.
5 They're gonna have to be admitted under seal.

6 **THE COURT:** Any objections to these being admitted
7 under seal, Mr. Dickinson?

8 **MR. DICKINSON:** No, Your Honor. Ms. Levy beat me to
9 it.

10 **THE COURT:** All right. Very well. These will be
11 admitted and will be maintained under seal.

12 *(Government Exhibit No. 2, received.)*

13 **BY MR. DICKINSON:**

14 Q. So I just wanted you to [indiscernible] does it show the
15 admitting time and the discharge time on the -- on page 1?

16 **A.** [Indiscernible] --

17 **MS. LEVY:** Your Honor, I'm going to --

18 **THE COURT:** Go ahead, Ms. Levy.

19 **MS. LEVY:** These are documents that are in evidence.
20 They speak for themselves. Unless this agent is speaking from
21 personal knowledge, she should not be testifying about these
22 documents.

23 **THE COURT:** They do speak for themselves, but I think
24 if they want to call my attention to certain information in
25 these exhibits and since they're very lengthy and we only have

Seara Jones - Direct

1 so much time to do the hearing, I will allow Mr. Dickinson to
2 ask the questions.

3 *[Indiscernible background noise]*

4 **THE COURT:** So the objection's overruled.

5 **BY MR. DICKINSON:**

6 Q. Does it --

7 **THE COURT:** Go ahead, Mr. Dickinson.

8 *[Indiscernible background noise]*

9 **BY MR. DICKINSON:**

10 Q. Agent Jones, does it show the admitting date and the
11 admitting time at the top center of page 1?

12 **A.** Yes, it does.

13 Q. And what is that?

14 **A.** The admit date is March 29th, 2020, and the admit time is
15 1:27 p.m.

16 Q. And --

17 *[Indiscernible background noise]*

18 **THE COURT:** Let me just pause for a second.

19 Mr. Damato, would you knock on the door for a second so that I
20 can call -- I can speak to the guards outside?

21 *(Pause in proceedings.)*

22 **THE COURT:** Go ahead, Mr. Dickinson.

23 **BY MR. DICKINSON:**

24 Q. Agent Jones, let's flip to the first page of Exhibit 2,
25 Bates stamp 13. On the bottom right does it show the

Seara Jones - Direct

1 discharge date and time?

2 **A.** Yes, it does.

3 **Q.** And what is that?

4 **A.** Discharge date is March 29th, 2020, and the time is
5 4:15 p.m.

6 **Q.** All right. And finally I want you -- if you could look
7 at Exhibit 1.

8 **A.** Yes.

9 **Q.** And what is Exhibit 1?

10 **A.** Exhibit 1 is Southern Hills Hospital medical reports for
11 Louis Damato.

12 **MR. DICKINSON:** And, Your Honor, I'd [indiscernible]
13 Government Exhibit 1.

14 *(Government Exhibit No. 1, offered.)*

15 **THE COURT:** Any objections, Ms. Levy?

16 **MR. DICKINSON:** Under seal.

17 **THE COURT:** Under seal. Ms. Levy, any objections
18 to --

19 **MR. DICKINSON:** Yes.

20 **THE COURT:** -- Exhibit 1 under seal?

21 **MS. LEVY:** No, Your Honor.

22 **THE COURT:** That will be admitted under seal.

23 *(Government Exhibit No. 1, received.)*

24 **BY MR. DICKINSON:**

25 **Q.** Agent Jones, you said -- you stated it was for Southern

Seara Jones - Direct

1 Hills Hospital and Medical Center?

2 **A.** Yes.

3 **Q.** Is that the facility that Mr. Damato is at?

4 **A.** No. The actual facility is ER at The Lakes. Is at the
5 intersection of Fort Apache and Desert Inn.

6 **Q.** And does Exhibit 1 --

7 *(Simultaneous crosstalk.)*

8 **THE DEFENDANT:** [Indiscernible].

9 **BY MR. DICKINSON:**

10 **Q.** Does Exhibit 1 -- oh.

11 **THE COURT:** Mr. Dickinson --

12 *(Simultaneous crosstalk.)*

13 **MR. DICKINSON:** I hear Mr. Damato --

14 **THE COURT:** Yeah. Let me just interrupt you a
15 moment.

16 Mr. Damato, I'm going to remind you that you do not
17 have to say anything at all. We can hear everything that you
18 say. So if you do need to speak to your attorney at any point
19 in time, just make sure that you let me know and we'll pause
20 the proceedings.

21 Do you need to speak to Ms. Levy?

22 **THE DEFENDANT:** I -- I would like to speak with
23 Ms. Levy, please. This -- this is --

24 **THE COURT:** That's fine.

25 **THE DEFENDANT:** I have never --

Seara Jones - Direct

1 *(Simultaneous crosstalk.)*

2 **THE COURT:** No other --

3 **THE DEFENDANT:** -- ER at The Lakes.

4 **THE COURT:** Mr. Damato, we went through this before.
5 Just let me know whether you need to speak to Ms. Levy, and
6 I'll make sure that that happens. But I don't want you making
7 any other statements because everything's on the record.
8 Okay? This is to protect your rights. Okay?

9 **THE DEFENDANT:** Okay. I --

10 **THE COURT:** All right.

11 **THE DEFENDANT:** -- apologize, Your Honor.

12 **THE COURT:** So go ahead and knock on the door one
13 more time so that we can get the guards to mute the
14 videoconferencing.

15 *(Pause in proceedings.)*

16 **COURTROOM ADMINISTRATOR:** Your Honor, I can mute the
17 audio from Mr. Damato's cell from here.

18 **THE COURT:** Okay. Well, we're also going to need to
19 mute Ms. Levy as well.

20 **COURTROOM ADMINISTRATOR:** Yes, Your Honor.

21 **THE COURT:** All right. So why don't you go ahead.
22 Let me know when that's ready, Mr. Miller, and we'll test it.

23 **COURTROOM ADMINISTRATOR:** Ms. Levy, can you say
24 something?

25 **THE COURT:** Okay.

Seara Jones - Direct

1 **COURTROOM ADMINISTRATOR:** Your Honor, Ms. Levy is
2 likewise muted at this time.

3 **THE COURT:** Okay. And Mr. Damato, go ahead and say
4 something. Okay. We can't hear either Ms. Levy or
5 Mr. Damato. If you want to block your screen, Ms. Levy,
6 you're welcome to do that, and we'll resume whenever you're
7 ready.

8 *(Pause in proceedings.)*

9 **THE COURT:** And Ms. Levy, I think that you -- are you
10 able to call him at this time? Okay.

11 *(Pause in proceedings.)*

12 **COURTROOM ADMINISTRATOR:** Your Honor, I'm getting
13 a -- the signal from Ms. Levy to unmute the parties.

14 **THE COURT:** All right.

15 **COURTROOM ADMINISTRATOR:** I'm going to do so now.

16 **THE COURT:** Very well.

17 **COURTROOM ADMINISTRATOR:** Mr. Damato, can you hear us
18 okay?

19 **THE DEFENDANT:** Yes, I can.

20 **COURTROOM ADMINISTRATOR:** Ms. Levy, can you hear us?
21 Ms. Levy, can you speak so we know that you're unmuted on this
22 side?

23 **MS. LEVY:** Yes.

24 **COURTROOM ADMINISTRATOR:** Excellent. We're good to
25 go, Your Honor.

Seara Jones - Direct

1 **THE COURT:** Mr. Dickinson, go ahead.

2 **MR. DICKINSON:** Yes.

3 **BY MR. DICKINSON:**

4 Q. Again, Agent Jones, looking at Exhibit 1, does this show
5 the admission date and time?

6 A. Yes, it does.

7 Q. On page 1, top [indiscernible]?

8 A. Yes.

9 Q. And what was that?

10 A. It's for March 30th, 2020, and the time was for 2:55 a.m.

11 Q. And does it show the discharge date and time in the
12 bottom right?

13 A. Yes, it does.

14 Q. And what was that?

15 A. For March 30th, 2020, at 4:38 a.m.

16 Q. And then if you could go to page -- the second page,
17 which is Bates 107.

18 A. Yes.

19 Q. At the bottom [indiscernible] the paragraph
20 [indiscernible] notes?

21 A. Yes.

22 Q. If you go to the third line to the right [indiscernible]
23 patient report?

24 A. Yes.

25 Q. Could you just read the rest of that paragraph from that?

Seara Jones - Direct

1 **A.** Yes. [As read:] "Patient report. Seizure was
2 unwitnessed. He was sitting outside with his neighbor
3 smoking. Report says neighbor -- neighbor went inside at
4 approximately 1:00 a.m. Patient states he then woke up on a
5 bench where he was sitting and called 911. Patient reports
6 dehydration, denies pain, incontinence, tongue biting, or
7 other associated medical com -- complaints."

8 *[Indiscernible background noise]*

9 **BY MR. DICKINSON:**

10 Q. And just one -- one more question, Agent Jones. For the
11 record, do you see Mr. Damato, the person you arrested on
12 March 30th here on this -- at this hearing?

13 **A.** Yes, I do.

14 Q. And --

15 *[Indiscernible background noise]*

16 **THE COURT:** Okay. Mr. Damato, go ahead and knock on
17 the door again, please.

18 *(Pause in proceedings.)*

19 **THE COURT:** Go ahead, Mr. Dickinson.

20 **MR. DICKINSON:** I don't have any further questions,
21 Your Honor.

22 **THE COURT:** All right. Ms. Levy, do you have any
23 cross-examination?

24 **MS. LEVY:** I do. Thank you.

25 **THE COURT:** Go ahead.

Seara Jones - Cross

CROSS-EXAMINATION

BY MS. LEVY:

Q. I'm going to first direct your -- I'm going to first direct your attention to the Embassy Suites reservation.

A. Yes.

THE COURT: And for the record, that's Exhibit 3.

BY MS. LEVY:

Q. Yes. Do you have that in front of you?

A. Yes, I do.

Q. I was not at the initial appearance that Mr. Damato made. Were you there, Agent?

A. I was not.

Q. Okay. So you are unaware of what the judge told Mr. Damato regarding finding alternative housing; is that correct?

A. That is correct.

Q. Okay. I'm going to now turn your attention to the conditions of Mr. Damato's release. Were you given information about what his conditions were?

A. I was not.

Q. Do you know what his conditions of release are?

A. I do not.

Q. Have you spoken with Pretrial Services regarding Mr. Damato's conditions?

A. I have not.

Seara Jones - Cross

1 Q. Did you personally review the conditions with Mr. Damato?

2 A. I did not.

3 Q. I'm gonna move your attention to Mr. Damato's medical
4 records. You indicated that you reviewed them; is that
5 correct?

6 A. That is correct.

7 Q. Do you have any personalized training in medicine?

8 A. I do not.

9 Q. Are you aware of Mr. Damato's medical conditions?

10 A. Just his status of HIV. That's pretty much it.

11 Q. What education and training do you have about
12 [indiscernible] medical condition who has HIV?

13 A. I don't have any, ma'am.

14 Q. Do you know when he first was diagnosed with HIV?

15 A. I --

16 *(Simultaneous crosstalk.)*

17 **MR. DICKINSON:** Your Honor, I'm going to object as to
18 beyond the scope. I didn't ask Agent any questions about the
19 medical records except the discharge date and admitted date.

20 **THE COURT:** Ms. Levy, would you like to answer?

21 **MS. LEVY:** I would, Your Honor. He did, in fact, ask
22 questions. He had this agent read a paragraph from the
23 medical reports. I made an objection; it was overruled. So
24 now I'm free to cross-examine this agent about what her
25 knowledge is regarding my client's medical condition that is

Seara Jones - Cross

1 in part contained in the records that she was used to admit.

2 **THE COURT:** How is that relevant to the finding that
3 I need to make which is whether he returned to the halfway
4 house or not?

5 **MS. LEVY:** Yes, Your Honor. And -- and I do
6 understand the Court's point, which is more of a relevance
7 objection. And to the Court's inquiry, the concern that we
8 have is we have three separate medical reports that indicate
9 that Mr. Damato was suffering from dehydration, which is a
10 result of his status as having HIV and have -- having it for a
11 long time.

12 The concern is that the dehydration can cause some
13 levels of confusion, misunderstanding, and memory lost.

14 **THE COURT:** All right. So --

15 *(Simultaneous crosstalk.)*

16 **MS. LEVY:** The doctors --

17 **THE COURT:** Go ahead, Ms. Levy.

18 **MS. LEVY:** Thank you, Your Honor.

19 **THE COURT:** So the objection is overruled. Go ahead,
20 Ms. Levy.

21 **BY MS. LEVY:**

22 Q. To be clear, Agent, you are unaware of his medical
23 condition other than the fact that he is HIV positive?

24 **A.** That is correct.

25 Q. You reviewed the medical reports, though; correct?

Seara Jones - Cross

1 **A.** That's correct.

2 **Q.** And you read from them, did you not?

3 **A.** I did.

4 **Q.** And when you reviewed them, it did indicate that he's
5 suffering from dehydration; is that right?

6 **A.** That's correct.

7 **Q.** And, in fact, the hospital treated him for dehydration,
8 they didn't turn him away; is that right?

9 **A.** That is correct.

10 **Q.** Do you know what time he initially appeared at the
11 halfway house?

12 **A.** I do not.

13 **Q.** Do you know how he was released to the halfway house?

14 **A.** I do not.

15 **Q.** The cab that you indicate that Mr. Damato was in, do you
16 know how Mr. Damato got the cab, meaning was the phone number
17 provided to him from either the hospital or somebody else?

18 **A.** I do not.

19 **Q.** When Mr. Damato was arrested, he had items on his person;
20 correct?

21 **A.** That is correct.

22 **Q.** He had a face mask?

23 **A.** That's correct.

24 **Q.** All right. He had the reservation for Embassy Suites;
25 correct?

Seara Jones - Cross

1 **A.** Yes.

2 **Q.** He did have Camel cigarettes; correct?

3 **A.** Yes.

4 **Q.** Did he have any marijuana?

5 **A.** No, he did not.

6 **Q.** Do you know whether Mr. Damato was provided medication
7 while he was at the halfway house?

8 **A.** I do not.

9 **Q.** Do you know what medication he takes?

10 **A.** I do not.

11 **Q.** Do you know [indiscernible] Mr. Damato received from the
12 halfway house?

13 **THE COURT:** Could you repeat the question --

14 **SPECIAL AGENT JONES:** When you say halfway --

15 **THE COURT:** -- Ms. Levy? I'm sorry. I couldn't hear
16 the question. Could you repeat it one more time?

17 **BY MS. LEVY:**

18 **Q.** Do you know if Mr. Damato was given any pass to leave the
19 facility at the halfway house?

20 **A.** Besides the ambulance, the emergency that he departed in,
21 I don't have any knowledge outside of that. That was the only
22 pass I know of.

23 **Q.** Which -- which date are you discussing?

24 **A.** That would be for the 29th.

25 **Q.** Mr. Damato went twice to the emergency room from the

Seara Jones - Cross

1 halfway house; is that correct?

2 **A.** I only believe he went one time from the halfway house.
3 I'm not exactly sure where he came from the second -- when he
4 arrived to Southern Hills Hospital.

5 **Q.** You don't know whether he had been at the halfway house?

6 **A.** I -- I know that he did not return to the halfway house
7 based on my conversation with Mrs. Sandra Bustos.

8 **Q.** But you don't know where he [indiscernible] ambulance
9 from?

10 **THE COURT:** One more time.

11 **SPECIAL AGENT JONES:** The initial --

12 **THE COURT:** Hold on.

13 Could you repeat the question, Ms. Levy?

14 **BY MS. LEVY:**

15 **Q.** Do you know whether Mr. Damato took an ambulance from the
16 halfway house?

17 **A.** I do know he did take an ambulance from the halfway house
18 on March 29th.

19 **Q.** Do you know about any other dates that Mr. Damato took an
20 ambulance from the halfway house to an emergency room?

21 **A.** I do not, no.

22 **Q.** Was Mr. Damato given any bus passes from the halfway
23 house?

24 **A.** I'm not sure.

25 **Q.** You testified that Mr. Damato had been at The Lakes?

Seara Jones - Cross

1 **A.** Yes.

2 **Q.** That's a stand [indiscernible] ER affiliated with
3 Southern Hills; correct?

4 **A.** That is, correct.

5 **Q.** Okay. Why is it that you believe he was at The Lakes and
6 not Southern Hills?

7 **A.** That was based off of my information I received from
8 Sunset Hospital [sic]. I actually drove over to ER at The
9 Lakes, and I inquired about Louis Damato and they told me that
10 he had, in fact, been there. But the actual record that I had
11 to retrieve had to come from Southern Hills, and at that point
12 I went to Southern Hills Hospital to retrieve the document.

13 **Q.** Let me clarify something with you. You indicated Sunset
14 Hospital. Do you mean Sunrise?

15 **A.** Or Sunrise. Sorry.

16 **Q.** So the information you are getting is secondhand. You
17 did not see Mr. Damato at the hospital; correct?

18 **A.** I did not see him there, no.

19 **Q.** Did Mr. Damato discuss with you his medical condition
20 when he was with you?

21 **A.** He talked about him having HIV. Beyond that, no.

22 **MS. LEVY:** Nothing further, Your Honor.

23 **THE COURT:** Thank you.

24 Mr. Dickinson, do you have any redirect?

25 **MR. DICKINSON:** No, Your Honor.

TRANSCRIBED FROM DIGITAL RECORDING

1 **THE COURT:** Very well.

2 Mr. Dickinson, do you have any other witnesses?

3 **MR. DICKINSON:** No, Your Honor.

4 **THE COURT:** All right.

5 **THE DEFENDANT:** Can I --

6 **THE COURT:** Mr. Damato --

7 **THE DEFENDANT:** Can I speak with my attorney?

8 **THE COURT:** Absolutely. So let's go ahead and mute
9 Mr. Damato and mute Ms. Levy.

10 Mr. Miller, let me know when that's ready.

11 **COURTROOM ADMINISTRATOR:** Your Honor, both the
12 [indiscernible] at room six for Mr. Damato is and Ms. Levy's
13 are both muted at this time.

14 **THE COURT:** All right. Go ahead and let's test it.
15 Ms. Levy, could you say something? Okay. And Mr. Damato,
16 would you say something? Okay. It doesn't look like they can
17 hear you.

18 Okay. Go ahead.

19 *(Pause in proceedings.)*

20 **COURTROOM ADMINISTRATOR:** Ms. Levy, can you hear me?

21 **MS. LEVY:** I can.

22 **COURTROOM ADMINISTRATOR:** Mr. Damato, can you hear
23 us?

24 **THE DEFENDANT:** I can.

25 **COURTROOM ADMINISTRATOR:** Thank you, sir.

TRANSCRIBED FROM DIGITAL RECORDING

1 Your Honor, we're ready to proceed.

2 **THE COURT:** All right. So I believe I had asked
3 Mr. Damato if he had any other witnesses.

4 **MR. DICKINSON:** No, Your Honor.

5 **THE COURT:** All right. And Ms. Levy, do you have any
6 witnesses?

7 **MS. LEVY:** No, Your Honor.

8 **THE COURT:** All right. Very well.

9 So, Mr. Dickinson, I will hear from you.

10 **MR. DICKINSON:** Your Honor, as to the first prong
11 [indiscernible] 48(b)(1)(B), I think there's established
12 [indiscernible] evidence that the defendant violated his
13 condition of release Number 23; that he maintain residence at
14 a halfway house. He was only permitted to leave for religious
15 services, medical treatment, attorney visits, court
16 appearances, et cetera.

17 The defendant [indiscernible] leave for the hospital.
18 He was discharged at 4:15 p.m. on March 29th. He did not
19 return to the halfway house. His lawyer [indiscernible] until
20 approximately a little over ten hours later when he checked
21 into the second hospital, and there he stated that he had been
22 outside with a neighbor smoking at 1:00 a.m. He's discharged
23 at 4:38 a.m. His whereabouts are unknown until he is arrested
24 at 6:30 p.m. attempting to pick up his dogs at an animal
25 shelter. He arrives at the shelter in a taxicab. He has the

TRANSCRIBED FROM DIGITAL RECORDING

1 hotel reservation on him which indicates he had zero intention
2 to return to the halfway house.

3 The conditions were clear. I was at the hearing. I
4 know Your Honor knows from her memory. It was crystal clear
5 to Mr. Damato that that was a condition and he was not
6 permitted to leave.

7 Mr. Pugh argued strenuously that he should be
8 permitted to leave to look for a place to live. The Court
9 denied that request and stated that Mr. Damato should look for
10 a place to live using the computer or other means at the
11 halfway house. And if he found a place, that he was to come
12 to Court expeditiously and bring that before Your Honor. So I
13 think it's -- it's -- the Government's established by the
14 burden -- the requisite burden of proof that he violated the
15 condition.

16 I'm not sure if you want me to address the -- the
17 second part of...

18 **THE COURT:** Yeah. Go ahead.

19 **MR. DICKINSON:** Well, if the Court finds that he did,
20 in fact, violate his condition, there are no combination of
21 conditions that can assure the safety to the community or
22 Mr. Damato -- or that Mr. Damato will appear for court
23 appearances.

24 Furthermore, under 3142(f)(2)(D) there's a serious
25 risk that the defendant will at the very least attempt to

TRANSCRIBED FROM DIGITAL RECORDING

1 threaten, injure, or intimidate the victim in this case. In
2 our case it's obviously Representative Titus. While defendant
3 was out on that Monday, March 30th, he took to Facebook and
4 began posting about Senator Titus -- Representative Titus.
5 That's Exhibit 4, Your Honor.

6 **THE COURT:** Which is not in evidence.

7 **MR. DICKINSON:** Well, I believe on the second part,
8 Your Honor, if you do find he can, then I can proffer under --
9 *(Simultaneous crosstalk.)*

10 **THE COURT:** Yeah, go ahead --

11 *(Simultaneous crosstalk.)*

12 **MR. DICKINSON:** -- the [indiscernible] format.

13 **THE COURT:** -- and proffer. I'm just making a record
14 that that's -- that's just not in the -- in evidence. So go
15 ahead. You're free to make a proffer.

16 **MR. DICKINSON:** I'm happy [indiscernible] however the
17 Court would like to go about it. But we were -- the agent
18 was -- Agent Jones was notified in her quest to find
19 Mr. Damato by one of his friends that he had started posting
20 on Facebook [indiscernible] Titus. You had 36 years in
21 office. There's some additional ones that the Court has
22 [indiscernible]. This is obviously a grave concern
23 considering the death threats to not only Representative Titus
24 but the state -- defendant's state charges which are to
25 [indiscernible] and to the Metro officer.

TRANSCRIBED FROM DIGITAL RECORDING

1 I can tell you since -- since the hearing -- since
2 our original hearing that I appeared before you for the
3 Government, Your Honor, I've obtained a copy of the audio he
4 left with the detective. I don't make light of this that
5 Mr. Damato is unhinged. He threatens the detective's life.
6 He threatens the detective's family members to put bullets in
7 their head. He uses derogatory racial slurs against
8 African-Americans, the "N" word. It goes on for quite a bit
9 of time. Threats to the victim [indiscernible] federal case
10 combined with him escaping from the halfway house -- or
11 absconding from the halfway house combined with the Facebook
12 postings, law enforcement had to notify the victim which of
13 course puts the victim in a precarious predicament as well as
14 the victims in the other cases. It generated a significant
15 law enforcement response to find Mr. Damato, which is, again,
16 troubling in the times we're at where law enforcement is
17 spending their time looking for Mr. Damato during the
18 coronavirus.

19 The -- the defendant knew he could not pick up his
20 dogs. That was brought up at the [indiscernible]. The Court
21 made that quite clear. The Government realizes that
22 Mr. Damato has health conditions. That's why the Government
23 spent a considerable amount of time that first day he was
24 arrested working with Mr. Pugh and working with Pretrial
25 Services to try and fashion the most strenuous conditions to

TRANSCRIBED FROM DIGITAL RECORDING

1 not put Mr. Damato in custody.

2 Mr. Damato broke the trust of the Court, and the
3 chance he was given, he's obviously still not taking this
4 seriously. But more so, there's clearly mental health issues
5 that were discussed at the original detention hearing. The
6 Court questioned Mr. Damato. He had -- he stated he was on
7 some medication but didn't exactly say what. Based on his
8 reported medication in the medical record, he's on
9 antianxiety -- or he claims to have taken antianxiety,
10 antidepressants, et cetera. Those need to be administered by
11 a medical professional, which he was ordered to do as well.

12 You know, Mr. Damato's behavior has escalated from
13 the beginning of February when it started with his property
14 manager, and there's just a serious risk that he is going to
15 reoffend. He places the victims in fear of danger when he
16 absconds, and he's obsessed, unfortunately, with the victim in
17 this case, Representative Titus. He incessantly talks about
18 her as can be seen by the Facebook messages. So I think
19 [indiscernible] beyond a serious risk that he will intimidate
20 or attempt to threaten, injure, or intimidate the victim in
21 this case.

22 So for those -- oh. One final thing, Your Honor.
23 And I was unaware of this. The State filed a new charge
24 against him, a misdemeanor stalking charge, including the 15th
25 and 16th. I have been in touch with the DA but not since

TRANSCRIBED FROM DIGITAL RECORDING

1 then. So I apologize. I do not know the exact underlying
2 facts, but based on the stay-away order in the docket which is
3 from the property management, I have an educated guess that
4 that's for the second property manager because the first
5 pending charge is for one of the property managers. But he
6 has a \$3,000 bond on that one and arrest warrants issued. So
7 he would roll into state custody, and I -- and once again an
8 educated guess that he would not be released from state
9 custody if he was released in our case, so --

10 **THE COURT:** Okay. Let me make sure I understand.
11 Mr. Dickinson, let me ask you. You said that there's a new
12 misdemeanor charge, and you believe that it arises out of what
13 precisely?

14 **MR. DICKINSON:** He made -- Mr. Damato is currently
15 [indiscernible] original charge -- he has charges pending that
16 I know about --

17 *(Simultaneous crosstalk.)*

18 **THE COURT:** Mr. Dickinson? Mr. Dickinson, is there
19 any way that we can put your phone somewhere where it's
20 stable? Because I'm getting a little dizzy.

21 **MR. DICKINSON:** Okay. Sorry.

22 **THE COURT:** That's okay.

23 **MR. DICKINSON:** I couldn't get the computer up this
24 morning, Your Honor.

25 **THE COURT:** It's all right.

TRANSCRIBED FROM DIGITAL RECORDING

1 **MR. DICKINSON:** The -- he -- I know for a fact he has
2 pending charges related to threatening one of the property
3 managers as well as the Metro detective. In the police
4 reports there is a second property manager that was
5 threatened. So my educated guess -- but I do not know for
6 sure -- is this new charge relates to that.

7 **THE COURT:** Got it.

8 **MR. DICKINSON:** I base that on the fact that the
9 stay-away order mentions the property management company.

10 **THE COURT:** All right.

11 **MR. DICKINSON:** But the fact remains that there's a
12 new misdemeanor charge with a 3,000-dollar bond attached to it
13 that's been filed. And to refresh the Court's recollection,
14 we did not writ Mr. Damato over. I believe since we filed the
15 federal charges on the Titus threat, that the State dropped
16 that charge and decided to request the release despite the
17 fact that he had a 40,000-dollar bond but to request his
18 release from the state court so he would roll over into
19 federal custody to address the federal charge.

20 So bottom line, Your Honor, the Government believes
21 it showed by clear and convincing evidence the defendant's
22 violated the condition of release, and then that there are no
23 conditions that can guarantee the safety of the community,
24 that the defendant will appear, or the defendant will not
25 attempt to threaten, injure, or intimidate any of the victims

TRANSCRIBED FROM DIGITAL RECORDING

1 in this case.

2 **THE COURT:** All right. Ms. Levy?

3 **MS. LEVY:** Thank you, Your Honor.

4 Your Honor, first of all, I'm going to give somewhat
5 of a timeline based upon the testimony that we have about what
6 has occurred, Your Honor, which is that my client was released
7 and sent to the halfway house. We don't know what time he got
8 there based upon the testimony.

9 We also don't know who, if anybody, went over the
10 conditions of release when he got to the halfway house,
11 Your Honor. We know that the Court gave him conditions, but
12 we don't know whether the normal procedure was done. Not
13 through any fault of Pretrial Services, but this unique
14 circumstance with coronavirus means that, unlike in the normal
15 course where a Pretrial officer would have the opportunity to
16 speak with Mr. Damato, Mr. Damato goes right to the halfway
17 house skipping that step. Again, no fault of anybody there.

18 We [indiscernible] that he is dehydrated during this
19 time period. It's crystal clear that my client has
20 significant medical problems. The agent testified that he's
21 HIV positive, but -- but we do know and we can extrapolate
22 from the medical records is that the doctors agreed that my
23 client was dehydrated. And as this Court may or may not be
24 well aware, dehydration can cause a variety of problems;
25 significantly confusion, disorientation, those type of things,

TRANSCRIBED FROM DIGITAL RECORDING

1 which can be magnified with somebody who suffers from HIV and
2 is taking medication.

3 That leads me to my next point, which is that the
4 agent is unaware of what medication he was given or he was
5 taken -- taking. I'm sorry, Your Honor. That's important
6 because he was supposed to be taking these essential
7 medications while he was at the halfway house. We don't have
8 information at this point whether he was given that
9 medication, and obviously that's critical if he's leaving the
10 facility in order to get his medication. That would be part
11 of the allowed reasons to leave if you extrapolate that from
12 the Court's PR bond indicating medical appointments if my
13 client is going to get prescription medication, which,
14 Your Honor, I believe that he was, in fact, seeking the
15 medication which he was not given at the halfway house
16 unfortunately. That would have been allowed by this Court's
17 order.

18 Now, if he's waiting for that medication at a
19 friend's house and then ends up having what appears to be --
20 it's not a seizure. They don't think it's a seizure. They
21 think it's something like a seizure, an episode where
22 basically you lose consciousness, that, again, not a violation
23 of this Court's order. And it's our understanding -- and
24 maybe not quite clear about exactly what happened when he left
25 the halfway house, but there's no testimony that him going to

TRANSCRIBED FROM DIGITAL RECORDING

1 the hospital was in any way a violation of him -- of his
2 pretrial conditions.

3 Your Honor, I'm going to talk about that Embassy
4 Suites e-mail. I wasn't at the initial appearance, as I
5 previously indicated and the Court is aware, but I was able to
6 review it. And in the reviewing it, the Court does indicate
7 that Mr. Damato is free to find alternative housing via the
8 Internet. What Mr. Damato apparently did was find alternative
9 housing, [indiscernible] so of course if he cannot go to this
10 [indiscernible] it's refundable. And then from there, that's
11 [indiscernible] find this reservation. And it's a future
12 reservation.

13 The Court had indicated that it would expeditiously
14 hear any request for a modification. Now, I can tell this
15 Court, when I have clients seeking alternative housing on
16 Pretrial or even on any type of post-prison supervision, I
17 tell them you need an actual address. So he can't just
18 [indiscernible] say you're going to be at a hotel or you're
19 going to be at a weekly. You need to actually have
20 confirmation that I can provide to Pretrial Services about
21 where specifically you're going to go and for how long. So
22 that is a -- that's basically a [indiscernible] had that
23 because in reviewing the pretrial appearance, it appears that
24 that would be well within his ability to look for alternative
25 housing, make that reservation, and then pass that information

TRANSCRIBED FROM DIGITAL RECORDING

1 along so that a hearing could be put on calendar.

2 Your Honor --

3 **THE COURT:** So, Ms. Levy, I guess my question comes
4 down to this. So he is suffering from dehydration which
5 causes confusion, et cetera. He's discharged from Sunrise
6 Hospital on 3/29 at 4:15 p.m., and your argument is that he's
7 been disoriented, that he has had these side effects of being
8 dehydrated, yet he is lucid enough to make these reservations
9 but not to contact pretrial release services or the halfway
10 house to explain his whereabouts. That's sort of my concern
11 here.

12 **MS. LEVY:** Well, Your Honor, I would argue that that
13 is not information that we have. I asked the agent whether
14 she had been in touch with Pretrial Services or the halfway
15 house regarding his passes, and she did not indicate that she
16 had information about that. So we don't -- we do not know
17 whether Mr. Damato had been in touch with Pretrial or with the
18 halfway house. It is my understanding, Your Honor, that the
19 halfway house had indicated that Pretrial Services would come
20 and speak with him the next day, and then [indiscernible]
21 e-mail address for what appeared to be his case manager at the
22 halfway house, not a Pretrial Services officer. He then
23 e-mailed this particular case manager believing it to be his
24 Pretrial officer trying to get in touch with this -- what he
25 believed to be a Pretrial officer in desperation. This was

TRANSCRIBED FROM DIGITAL RECORDING

1 while he was still at the halfway house after have -- having
2 come back from the hospital the first time.

3 So, Your Honor, we do not have testimony that
4 Mr. Damato [indiscernible] contacted Pretrial Services,
5 contacted the halfway house, or that they indicated to him he
6 needed to come back. We also don't have testimony that he was
7 given a pass and told to come back at a certain time. I would
8 argue, Your Honor, that if he was [indiscernible] pass and he
9 was seeking medication -- prescribed medication, which was not
10 provided to him at the halfway house, this would not have been
11 a violation and certainly not clear and convincing that this
12 is a violation of his pretrial conditions.

13 Your Honor, I would also note that HIV can --
14 particularly in individuals who have long-term diagnosis can
15 actually go into the brain, and it's a phenomenon that then
16 can cause symptoms that appear to be dementia like. So in --
17 the Court has concerns how he can be lucid during some parts
18 and then not lucid during others, but experience with dementia
19 would show you that that is exactly how it appears in
20 individuals and it's actually a very common -- it's a common
21 side effect, I would say, of HIV.

22 The Government argued about conditions, and I'm
23 gonna -- if the Court is okay with that, I'm -- I'm gonna
24 parlay into my argument of conditions for Mr. Damato. We
25 would argue that there hasn't been a showing by the Government

TRANSCRIBED FROM DIGITAL RECORDING

1 that Mr. Damato violated his pretrial release by clear and
2 convincing standards simply by going to the hospital to seek
3 appropriate treatment. But if the Court did find that,
4 Your Honor, there -- there are conditions that can be
5 fashioned to continue Mr. Damato on release.

6 This is the concern that -- that we have, is that we
7 don't know what condition Mr. Damato was at when he is first
8 released to the halfway house. Because we know at that point
9 he hadn't been receiving the medications needed when he
10 [indiscernible] to the halfway house. He's off -- basically
11 off that mental health medication. But in addition to that,
12 he takes antiretroviral drugs for HIV, which are critical; not
13 only critical to somebody who has HIV but critical to somebody
14 who has HIV during coronavirus. Without those antiretroviral
15 drugs, the CDC says that he's at great risk because he is
16 immunocompromised. But when he gets to the halfway house,
17 he's not receiving his medication. He basically immediately
18 has to go to the hospital. The doctors find that he is
19 dehydrated. They -- that he requires treatment. He's
20 released, and they give him a bus pass the first time except
21 the bus isn't running back at that time. So he has to walk
22 back from the hospital all the way to the halfway house, which
23 he does, in fact, do.

24 Saturday morning he then e-mails what he believed to
25 be his Pretrial officer that is really an internal case

TRANSCRIBED FROM DIGITAL RECORDING

1 manager. Now, Mr. Damato doesn't notice. He has basically no
2 experience with the criminal justice system --

3 **THE COURT:** I'm sorry. Let me --

4 **MS. LEVY:** -- unlike --

5 *(Simultaneous crosstalk.)*

6 **THE COURT:** Let me -- let me stop you one second.
7 I'm sorry. You said that on Saturday he e-mailed somebody he
8 believed to be his Pretrial officer. Who was it instead that
9 he e-mailed?

10 **MS. LEVY:** Who was the person he e-mailed?

11 **THE COURT:** Correct.

12 **MS. LEVY:** Okay. Give me one second, Your Honor.

13 I'm going to check my documents. I just have to go to a new
14 page.

15 *(Pause in proceedings.)*

16 **THE DEFENDANT:** Your Honor, would I be able to speak
17 with Ms. Levy again really quickly?

18 **THE COURT:** Yes. Of course. Mr. Miller, if we could
19 mute Ms. Levy --

20 **THE DEFENDANT:** Thank you.

21 **THE COURT:** -- and Mr. Damato?

22 **MS. LEVY:** Your Honor, before I go, I -- I have the
23 e-mail so that way I can just leave the Court with that
24 information before I go.

25 **THE COURT:** Okay.

TRANSCRIBED FROM DIGITAL RECORDING

1 **MS. LEVY:** So the -- the e-mail is -- the e-mail is
2 to a Ms. Castro who he believed [indiscernible] officer --

3 **THE COURT:** Who is who?

4 **MS. LEVY:** He tells the...

5 **THE COURT:** I'm sorry, who's Ms. Castro?

6 **MS. LEVY:** I'm -- I'm sorry, what?

7 **THE COURT:** You said something about Ms. Castro that
8 I did not understand.

9 **MS. LEVY:** Yes, Your Honor. He e-mails an individual
10 named Ms. Castro. Mr. Damato is [indiscernible] from the
11 halfway house that Miss [indiscernible] is his Pretrial
12 officer or at least that's what he understands. And that
13 night he -- just another indication how confused Mr. Damato
14 is.

15 **THE COURT:** So let me make sure that --

16 **MS. LEVY:** He sends Miss --

17 **THE COURT:** -- I understand. Mr. Damato believed
18 that Ms. Castro was his Pretrial Services officer, and he
19 e-mailed Ms. Castro. Is Ms. Castro somebody at the halfway
20 house?

21 **MS. LEVY:** That's correct. It appears that she's
22 probably his case manager because the e-mail is from GEO
23 Group. Mr. Damato doesn't know the difference [indiscernible]
24 that the e-mail should be a Pretrial e-mail address. He sends
25 her an e-mail stating that he's -- he wants to obtain his own

TRANSCRIBED FROM DIGITAL RECORDING

1 place ASAP, begging for them to come and meet with -- telling
2 the Pretrial officer, the person he believes to be his
3 Pretrial officer, that his dog needs to be picked up by
4 6:30 and basically indicating he had been hospitalized and
5 seeking help he says ASAP. He then leaves his name and phone
6 number. Of course he does not hear back because Ms. Castro is
7 not a Pretrial officer unfortunately. That was a
8 miscommunication on the half -- on behalf of -- of the halfway
9 house.

10 So Mr. Damato is reaching out to Pretrial. My
11 understanding -- and, again, I'm not casting any aspersions.
12 This is a very difficult time for everybody. But my
13 understanding is that Pretrial had never met with Mr. Damato
14 while he was at the halfway house.

15 **THE COURT:** All right. Thank you.

16 Should we go ahead and mute at this point, Ms. Levy?

17 **MS. LEVY:** Thank you, Your Honor.

18 **THE COURT:** All right.

19 **MS. LEVY:** Thank you.

20 **THE COURT:** All right. Let's test it. Ms. Levy,
21 could you say something? Let's test it. Ms. Levy, can you
22 hear us? Okay. Perfect.

23 Mr. Damato, can you hear me? All right. Perfect.
24 Go ahead.

25 *(Pause in proceedings.)*

TRANSCRIBED FROM DIGITAL RECORDING

1 **COURTROOM ADMINISTRATOR:** Your Honor, both Mr. Damato
2 and Ms. Levy have been unmuted.

3 **THE COURT:** All right. Ms. Levy, go ahead.

4 **MS. LEVY:** So, Your Honor, in terms of the conditions
5 that can be fashioned, there are conditions that can be
6 fashioned. This is the concern that we have, and -- and
7 perhaps if we did not have coronavirus things might be a
8 little bit different. But given Mr. Damato's unique
9 circumstances, his medical circumstances, being HIV positive
10 in jail is a very, very dangerous situation. My client
11 indicates he's still in a bunk. My client indicates that he's
12 basically eating in his bunk, which is -- is very concerning
13 to me because obviously, at that point, you could -- you could
14 really infect somebody or -- or be infected. My client is
15 indicating to me that -- that not everybody is using masks and
16 gloves. He does have access to one mask, but of course, as we
17 know, they have to disinfect that mask.

18 So the concerns that we have are that if he's being
19 housed so closely with other individuals in custody, that in
20 all frankness, if he gets coronavirus, it is basically a death
21 sentence. And I don't say that to be dramatic. I actually
22 consulted with an individual who is a specialist dealing with
23 HIV patients. He indicates that somebody who is as
24 immunocompromised as Mr. Damato -- and he has had HIV for such
25 a long time, which can be [indiscernible], Your Honor, HIV in

TRANSCRIBED FROM DIGITAL RECORDING

1 its form initially in the 80s and 90s was much different than
2 HIV today. It's actually -- it's a different strain. So
3 Mr. Damato is at great risk if he contracts the virus, and we
4 know that individuals in custody have contracted the virus.

5 Aside from just concerns about coronavirus, I'm gonna
6 go back to what was argued initially, which is that Mr. Damato
7 really basically has absolutely no criminal history. The
8 latest misdemeanor complaint appears to relate back to sort of
9 the [indiscernible] of these -- all these charges. So even
10 though there are multiple charges, it's really basically one
11 event or series of events. My client was released in state
12 court. Bail was given to my client, and then a PR bond was
13 given to my client. So there's no indication that if he -- he
14 was sent to CCDC on a misdemeanor, that they would hold him.
15 And if bail was [indiscernible], my understanding's that he
16 might be able to get family support to assist him with that.
17 And -- and that -- that's something that's [indiscernible] his
18 family. I know there's financial strains, but that is always
19 a possibility there. And I know they're not keeping people in
20 custody over in state court as much because of coronavirus as
21 well.

22 So, Your Honor, there are conditions that can be
23 fashioned. When my client was initially released to the
24 halfway house, he was not sat down and given these conditions
25 and reviewed with him. So what he's basically asked to do

TRANSCRIBED FROM DIGITAL RECORDING

1 was -- was to base it off of his memory from the initial
2 appearance, which normally, Your Honor, would be
3 understandable, and the Court would say, Well, you heard me
4 say particular conditions, except we don't know what medical
5 condition he was in at the time of his initial appearance
6 because right when [indiscernible] house, he basically is sent
7 to the emergency room, to UMC for treatment.

8 And so while in a normal circumstance the Court may
9 say, you know, regardless of whether you reviewed these
10 conditions with Pretrial Services, you heard me say it.
11 Mr. Damato was in a very unique circumstance that we just
12 don't know exactly what he was able to retain from that
13 initial court appearance and continue [indiscernible].

14 Furthermore, we really don't know what he -- what was
15 going on during this time period because the Government simply
16 hasn't provided us enough information to be able to state
17 clear and convincing -- by the clear and convincing standard
18 that he was in violation of the -- the PR bond which allowed
19 release [indiscernible] certain circumstances which includes
20 medical release and then other -- other circumstances. He had
21 begged this individual, Ms. Castro, Please come see me, I have
22 to get my dog out, which he discussed at his initial
23 appearance, and I'm having some medical issues here. So he
24 was trying to get in touch with Pretrial Services, and -- and
25 that was while he was still at the halfway house.

TRANSCRIBED FROM DIGITAL RECORDING

1 Also, Your Honor, my understanding is -- just to
2 update the Court on the Embassy Suites, that was done at the
3 halfway house using the halfway house computer, which would
4 not be a violation of his pretrial and would not, as the agent
5 indicated, show any type of indication he wasn't gonna come
6 back because he actually remained at the halfway house that
7 day.

8 **THE COURT:** So I guess, Ms. Levy, what I've not heard
9 you talk about is what -- where would he go? Right? I mean,
10 assuming that I were to find conditions, what -- how does your
11 client account for where he would go?

12 **MS. LEVY:** So, Your Honor, we would suggest that the
13 Court [indiscernible] there has been no violation that --

14 **THE COURT:** I'm sorry --

15 *(Simultaneous crosstalk.)*

16 **MS. LEVY:** -- that would prohibit going back to
17 the --

18 **THE COURT:** So your suggestion is for him to go back
19 to the halfway house?

20 **MS. LEVY:** Yes, Your Honor. Unlike a client who had
21 some type of altercation at the halfway house or didn't follow
22 internal rules at the halfway house. That's not the
23 circumstance that we have here. I mean, frankly, the
24 violation has nothing to do with rules at the halfway house.
25 It's Mr. Damato's understanding of his requirements to stay at

TRANSCRIBED FROM DIGITAL RECORDING

1 the halfway house regardless of his medical condition.

2 So we would suggest that he go back to the halfway
3 house, but as this Court is well aware, the halfway house also
4 has people close to each other. It's better -- it is much
5 better -- Mr. Damato says that that facility had much better
6 spacing, which obviously is critical. But Mr. Damato has the
7 ability as we [indiscernible] Embassy Suites reservation to
8 get alternative housing [indiscernible] disability. So he can
9 get his own place which would then provide him isolation to be
10 able to continue throughout this process.

11 Your Honor, as the Court knows, his pre --
12 preliminary hearing was set out until June, and then after
13 that, you know, we simply don't know what's going to happen
14 [indiscernible]. So Mr. Damato could be in custody for quite
15 a -- a while pending this case. And so the greater amount of
16 time that he would have in custody, the greater concern we
17 have that Mr. Damato's life is at risk in the jail. So while
18 it -- it may be a very unusual situation and not something
19 that this Court is going to deal for other clients, with
20 Mr. Damato, he really does need to be given consideration for
21 release to the halfway house and then allowed to do what he
22 was able to do, make a reservation for a -- a -- a -- at
23 either an apartment or a weekly, a Siegel Suites, where he
24 could remain solo without any other individuals there that
25 could possibly infect him.

TRANSCRIBED FROM DIGITAL RECORDING

1 There are people in who have coronavirus and
2 obviously Mr. Damato simply cannot be, you know, anywhere near
3 somebody who has that -- who has coronavirus.

4 **THE COURT:** All right. So I thought I had read in
5 one of the documents that had been filed on the docket that
6 the halfway house would not allow Mr. Damato to go back.
7 Ms. Bustos, could you address that point for me?

8 **PRETRIAL SERVICES OFFICER:** That's correct,
9 Your Honor. When Mr. Damato made his initial appearance on
10 the revocation hearing, we spoke with the halfway house, and
11 they advised that they're not equipped to handle
12 [indiscernible] concerns and at that time [indiscernible].

13 During his brief residency at the halfway house
14 [indiscernible] advised us that he would be openly telling the
15 residents at the -- at the facility about his medical
16 conditions and telling everyone he has HIV, and it caused
17 great concern amongst the residents.

18 Additionally, Your Honor, just to address Ms. Levy's
19 request for him to return to the halfway house, we do not have
20 beds available at this time.

21 **THE COURT:** All right. Very well. So your request,
22 Ms. Levy, would be that he be allowed to go to the Embassy
23 Suites?

24 **MS. LEVY:** That's correct, Your Honor. If -- if I
25 may, I -- I have some concern about the halfway house

TRANSCRIBED FROM DIGITAL RECORDING

1 indicating that they do not -- that they can't have him
2 because of his medical [indiscernible] one, and two, because
3 he is disclosing his medical condition. Your Honor, it's
4 exactly the type of advice that a doctor would give, which is
5 you tell individuals that you cannot be near them and they
6 cannot be near you because you are in a very delicate medical
7 condition. So I understand that there's stigma attached to
8 HIV, but that stigma should not be preventing our clients from
9 going to the only [indiscernible] that Mr. Damato or any other
10 federal detainee would have to go, and it frankly concerns me
11 to hear that. And the fact that the halfway house doesn't
12 have the medical ability is simply because they didn't provide
13 him the medication that he needs. My understanding is that he
14 had medication on him at the time of his arrest, enough for 30
15 [indiscernible] which would then allow him, when he's released
16 and he gets his property, he would have 30 days regardless of
17 whether the halfway house is able to provide him that
18 medication or not, medication that's critical to him.

19 This is what I would ask the Court to do: To allow
20 his attorney -- who's me for today but is ultimately not going
21 to be me -- the opportunity to find a temporary housing for
22 him, such as Embassy Suites or Siegel Suites, make a
23 reservation, and then come back to the Court with that
24 information so that Pretrial -- Pretrial would have that
25 information, [indiscernible] that information, and then

TRANSCRIBED FROM DIGITAL RECORDING

1 supervise him from that facility.

2 So I guess I would ask that this be set over for --
3 until Monday so that we could make a reservation for
4 Mr. Damato for alternative housing.

5 **THE COURT:** Ms. Bustos, let me ask you -- you cut
6 off. You were suggesting that the halfway house was not
7 willing to take him back for what specific reason?

8 **PRETRIAL SERVICES OFFICER:** One second, Your Honor.
9 I'm just finding my notes on that.

10 **MS. LEVY:** Your Honor, if I may one -- add one thing
11 while Ms. Bustos is looking for her notes?

12 **THE COURT:** Yes. Go ahead, Ms. Levy.

13 **MS. LEVY:** My understanding -- my understanding is
14 Pretrial Services also has funding that they could provide
15 Mr. Damato with temporary housing. If the Court didn't want
16 to set this hearing over, we could ask that Pretrial Services
17 provide Mr. Damato with two days' worth of a hotel. They will
18 know where it's at because they'll provide it, and then
19 Mr. Damato is to find alternative housing within those two
20 days, and then we could set a status hearing for Monday.

21 **THE COURT:** Ms. Bustos, let me know when you're
22 ready.

23 **PRETRIAL SERVICES OFFICER:** Your Honor, the halfway
24 house advised that they're not equipped to handle his medical
25 concerns and his constant unaccountability. Their other

TRANSCRIBED FROM DIGITAL RECORDING

1 concern was that he was telling residents about his medical
2 conditions and telling them that he's HIV positive which
3 caused concern amongst residents [indiscernible],
4 Your Honor --

5 **THE DEFENDANT:** Your Honor, may I speak with -- may I
6 speak with Ms. Levy privately?

7 **THE COURT:** You may. So let's go ahead and mute
8 Mr. Damato and Ms. Levy.

9 **COURTROOM ADMINISTRATOR:** Your Honor, both parties
10 are muted.

11 **THE COURT:** All right. Let's make sure it worked.
12 Ms. Levy, can you say something? Mr. Damato, can you say
13 something?

14 Okay. We're muted. Go ahead.

15 *(Pause in proceedings.)*

16 **THE COURT:** All right. It looks like we can go ahead
17 and unmute.

18 Can you hear me, Ms. Levy?

19 **MS. LEVY:** Yes.

20 **THE COURT:** Mr. Damato, can you hear us?

21 **THE DEFENDANT:** Yes, Your Honor.

22 **THE COURT:** All right. So Ms. Levy, I think that you
23 were speaking.

24 **MS. LEVY:** So, Your Honor, the only thing that I
25 would add after speaking to my client is that while I -- I see

Examination of Steven Carpenter

1 nothing wrong with disclosing medical status in -- in this --
2 in the world, he indicates to me he didn't disclose it but he
3 [indiscernible]. So I don't know if maybe the staff felt
4 uncomfortable because of, you know, there is stigma attached
5 to HIV and -- and perhaps if they're unaware of how it's
6 transmitted and how to protect yourself, perhaps some of that
7 fear -- understandably but perhaps that is how it spread
8 throughout the facility, but my client indicates that it was
9 the staff that was told [indiscernible] told because what
10 happened is they line up for medication. He would line up and
11 they would not have any medication for him, and he would then
12 have to say to the staff member, you know, "I have medication
13 that I need." And they'd say, "What do you have?"
14 [indiscernible] antiretroviral [indiscernible] nothing further
15 after that, Your Honor.

16 **THE COURT:** All right. So I did ask Mr. Carpenter to
17 be present in court today. I have certain questions for
18 Mr. Carpenter. I advise both Mr. Dickinson and Ms. Levy to
19 ask questions of him as well.

20 Let me start out, Mr. Carpenter, by asking you a
21 specific question.

EXAMINATION

22
23 **BY THE COURT:**

24 Q. During the hearing today, we had guards from the facility
25 at Pahrump come into the room without gloves, without a mask,

Examination of Steven Carpenter

1 and they're dealing with an HIV positive individual. Could
2 you please let me know what's going on?

3 **A.** The facility does allow the people to wear masks, but
4 it's not -- it's not mandatory for them to wear gloves or
5 masks at all times.

6 Q. Even when they're dealing with HIV detainees?

7 **A.** I have not talked to them about any specific procedures
8 for the different level of individuals with their health
9 conditions. I know Mr. -- Mr. Damato is not in the high-risk
10 unit. He was a -- they asked him --

11 Q. He is not in the high --

12 **A.** He is not. I talked to the nurse before the hearing,
13 Clinical Supervisor Smith. She talked to him directly. He
14 refused to go into the high-risk unit because he did not want
15 to be housed in a cell. So he wanted to be housed in the dorm
16 unit. So he's currently in the D 4 dorm, which is the
17 protective custody kind of unit. So it was --

18 Q. Let me stop you right there.

19 **A.** Yes.

20 Q. He refused to go into the high-risk unit for what reason?

21 **A.** He did not want to be housed in a cell. The high-risk
22 unit is Unit BB, which is a cellblock, which two people in
23 each cell. He told them that -- Nurse Smith informed me that
24 he said he was -- they gave him anxiety or claustrophobic or
25 something to that extent, and he didn't want to be housed in

Examination of Steven Carpenter

1 that unit.

2 Q. All right. So let me just stop you right there. I
3 thought when -- during the initial appearance -- and I'm going
4 off of memory -- I thought that you were presented that there
5 were certain dorms that allowed for I believe you said about
6 90 people to be housed there [indiscernible] individuals that
7 were in high risk would be allowed to go to that specific dorm
8 and that you had maybe nine or ten at the time so that you
9 could ensure that social distancing was in place. I thought
10 that that's where Mr. Damato was at, at least originally.

11 **A.** At that time it was in a dorm. Because there's still
12 movements and needs to house people in certain units depending
13 on the custody, they couldn't take a whole dorm for 20 people.
14 So they did move them to the smaller unit, which is I think 60
15 beds, and they have him in that unit. So they moved the
16 high-risk unit from the dorm into the cellblock in between his
17 initial appearance and --

18 Q. Got it.

19 **A.** -- currently.

20 Q. And was the idea that he was going to be sharing a --
21 a -- a room in the cellblock with another individual?

22 **A.** They decide that. I couldn't speak if he was going to be
23 in his own cell or if there was going to be two to a cell. I
24 guess it would depend on how many people were in that category
25 and how many spots they had. We leave that up to the facility

Examination of Steven Carpenter

1 to decide exactly how people are housed.

2 Q. All right. So I'm sorry, I interrupted you. So you're
3 saying that currently he's at the G 4 dorm and I think that
4 you're giving information --

5 *(Simultaneous crosstalk.)*

6 **MARSHAL CARPENTER:** There's currently 59 detainees in
7 that unit and total capacity is 96. So they could still
8 implement some social distancing in that unit. All detainees
9 were provided cotton masks. It's up to them if they want to
10 wear them or not [indiscernible] wear the masks.

11 **BY THE COURT:**

12 Q. Are these being disinfected every so often?

13 **A.** Speaking to the facility, the idea was to eventually get
14 them two masks so one can be washed in laundry and then one
15 could be used. I have to verify that they do, when that's
16 going to happen, or if -- how many masks were given out.

17 Q. Okay.

18 **A.** I didn't get that information.

19 As far as the disinfectant products, every detainee
20 was given hand soap, shampoo, and toilet paper --

21 Q. Um-hum.

22 **A.** -- and the pod officer does have cleaning supplies and
23 the hygiene supplies to reissue. I did take a tour of the
24 facility the last -- couple weeks ago, and they do have a
25 large amount of toilet paper, soap, shampoo, all that stuff,

Examination of Steven Carpenter

1 cleaning solutions, and I was informed that every
2 [indiscernible] is there around every hour to clean the pod in
3 the high-risk areas that people touch and that that cleaning
4 solution is available to the detainees. Is certain one is, a
5 certain one's not depending on the chemical breakdown, but
6 they do have access to cleaning -- cleaning products.

7 Q. All right. Could you give me some information, if you
8 have any -- and I know that I did not put this in the minute
9 order. But do you have any information as to whether
10 Mr. Damato has been receiving medication while incarcerated?

11 A. I didn't ask about specifically that. I just talked to
12 the nurse, and I know he has communications with them because
13 she's the one that I asked about the unit. I could find that
14 out, and Mr. Damato might be able to say if he's getting
15 that --

16 *(Simultaneous crosstalk.)*

17 **BY THE COURT:**

18 Q. If you would, yes.

19 A. -- verify it.

20 Q. If you would find that out for me, that would be very
21 helpful.

22 **THE COURT:** I will turn things over to Ms. Levy
23 first, and then Mr. Dickinson, I will allow you an opportunity
24 to [indiscernible] some questions as well.

25 Ms. Levy, go ahead.

Examination of Steven Carpenter

EXAMINATION

BY MS. LEVY:

Q. Mr. Carpenter, the first housing option that Mr. Damato was given, you indicated that was a single cell?

A. No. It's two people to a cell. I don't know if Mr. Damato would be in his own cell or if he'd be paired with somebody. But I could talk to them to see, if there's a single cell available, I could make sure that he's the one that has access to it due to his medical condition. As opposed to somebody with asthma that's in there, he'll be -- well priority to have his -- his own cell.

Q. And the question that I have was you indicated that he was first given an option for a -- a single cell; right? Or did I --

A. No, no. He -- I was informed he came in, I think he was housed in medical, and then to move him into the high risk for the COVID unit. He indicated he didn't want to be in that unit because he didn't want to be in the cell. It gave him anxiety, I believe, I was informed.

Q. Sorry. It's hard because I can't see your face, Mr. Carpenter, so I don't mean to interrupt.

When -- when you're talking about the high-risk unit, is that a single cell?

A. No. The high-risk unit is the BB cellblock, and there are two beds in each cell in that unit. So the facility

Examination of Steven Carpenter

1 houses the individuals. So they could be housed by
2 themselves, or they could be housed with another individual
3 depending on how many beds are needed.

4 Q. And we're talking about the unit that Mr. Damato
5 indicated he did not want to be in; right?

6 A. That is correct.

7 Q. Okay. So even if he was in the high-risk unit that he
8 indicated he didn't want to be in, he would be potentially
9 with someone else?

10 A. Correct.

11 Q. And are they on lockdown?

12 A. They are in the unit and with limited access by the
13 staff. And I think they are for a certain amount of time.
14 It's kind of a split tier. So the COVID-19 high-risk
15 individuals come out at a certain time, and they have another
16 group I think in the lower part of that unit that comes out at
17 a different time. They don't intermingle, and everything is
18 sanitized in between. But I believe part of the day they are
19 on lockdown. They wouldn't be out the whole, like, 18 hours,
20 whatever it is, during the day. They would be locked down
21 part of the day.

22 Q. Do you know how much time they're allowed out of their
23 cell in the high-risk unit?

24 A. I do not have that exact information right now.

25 Q. Okay. So it's possible that they might be in their cell

Examination of Steven Carpenter

1 close to lockdown for almost the entire day?

2 **A.** I don't think that is a -- if they're out of their cell
3 during the day, so 16 hours and eight hours of sleep, they'll
4 probably be out, instead of the 16, half that time, so eight
5 hours out, eight hours asleep, and then eight hours they'll be
6 locked down during the day.

7 **Q.** When they're out of their cell, how close are they to
8 other individuals?

9 **A.** They have a day area. So that would be up to them to
10 decide how close they want to get to other individuals.

11 **Q.** When they're out of their cell, are other detainees
12 required to wear masks?

13 **A.** I do not believe they're required. They have access to
14 the masks, but it's up to them if they want to -- to wear
15 them.

16 **Q.** Just for clarification, your understanding of the mask is
17 that it -- the mask doesn't protect the individual wearing the
18 mask. The mask protects the person near the other individual;
19 right?

20 **A.** Um...

21 **THE COURT:** So if you don't have the answer to the
22 question, that's fine, Mr. Carpenter. I mean --

23 **MARSHAL CARPENTER:** I mean, I believe it's protecting
24 the individual wearing it, and if that person is sick,
25 protecting that person from spreading the virus as much.

Examination of Steven Carpenter

1 **BY MS. LEVY:**

2 Q. Meaning, Mr. Carpenter [indiscernible] there is a
3 detainee in the high-risk unit who has coronavirus and they
4 opt not to wear a mask, there's nothing that the staff there
5 can do to force them to wear a mask; right?

6 **A.** They are -- to my understanding, they're not forcing
7 people to wear masks. I mean, if the -- if it's known the
8 person has the virus or symptoms, they get placed in isolation
9 in the medical unit itself. So they would not be roaming
10 free.

11 All the people in that unit do not have any symptoms
12 or we have no reason to believe any of them have COVID at this
13 time. Of course we don't know because they could be
14 asymptomatic.

15 Q. I was just going to ask about that, Mr. Carpenter. Thank
16 you.

17 Was Mr. Damato tested?

18 **A.** No. They only test individuals that shows symptoms
19 believed to be COVID.

20 Q. And you know it can take up to 14 days to show symptoms?

21 **A.** Yes.

22 Q. And Mr. Damato's been out of custody; correct?

23 **A.** That's correct.

24 Q. In a hospital environment, are you aware of that?

25 **A.** Just in the hearing here, during the hearing.

TRANSCRIBED FROM DIGITAL RECORDING

1 Q. Are you aware whether he came into contact with anybody
2 who had coronavirus in the hospital setting?

3 **THE COURT:** Well, Ms. Levy, I -- you can make those
4 arguments to me. Mr. Carpenter is here just simply to answer
5 questions regarding conditions of confinement, and then you
6 can take those answers and make arguments to me. I don't want
7 to put him on the spot of having to become part of the hearing
8 otherwise. So his role here is very limited.

9 **MS. LEVY:** Yes, Your Honor.

10 **BY MS. LEVY:**

11 Q. If Mr. Damato was placed in the high-risk unit, how much
12 contact would he have with staff members?

13 **A.** They still have staff members in that unit but only
14 certain -- they have designated staff [indiscernible] are
15 working that unit. So not everybody can go into that unit.
16 But as far as the contact, it's -- it's more limited, but
17 there's still contact with staff.

18 Q. Is the staff in the high-risk unit wearing masks and
19 gloves at all times?

20 **A.** I don't know. I could find that out, but I don't know at
21 this time.

22 **MS. LEVY:** Nothing further. Thank you.

23 **THE COURT:** Mr. Dickinson?

24 **MR. DICKINSON:** No, Your Honor, I don't have any
25 questions.

TRANSCRIBED FROM DIGITAL RECORDING

1 **THE COURT:** All right. Ms. Bustos, is there anything
2 else that you would like to offer?

3 **PRETRIAL SERVICES OFFICER:** Just one clarification,
4 Your Honor. I just want to advise the Court that in
5 communicating [indiscernible] just advised me that Mr. Damato
6 did not report to the halfway house with any medication and
7 never provided them any medication to dispense to him. So I
8 just wanted to clarify that.

9 **THE COURT:** When he first arrived after I initially
10 released him?

11 **PRETRIAL SERVICES OFFICER:** Yes, Your Honor.

12 **THE COURT:** All right. So --

13 **THE DEFENDANT:** May I speak with my attorney again?

14 **THE COURT:** You may. Actually, I'm gonna tell you --

15 **THE DEFENDANT:** Your Honor, can I speak with --

16 **THE COURT:** Mr. Damato, I'm going to tell you what.
17 There's a lot of things that I need to consider here. I think
18 that we still need specific answers from Mr. Carpenter. I got
19 to tell you, I am very concerned about just simply what I've
20 seen here today. And I'm not blaming you, Mr. Carpenter. I
21 understand that you're is not in charge of the facility in
22 Pahrump, but we're dealing with a detained person who is at a
23 pretrial setting who is HIV positive and people are dealing
24 with him without gloves, without masks, and I've seen this
25 twice during the course of today's hearing.

TRANSCRIBED FROM DIGITAL RECORDING

1 I'm very concerned about the fact that it may be sort
2 of optional for individuals in Pahrump to wear masks and
3 gloves. And, again, I understand that you're not the one
4 making those conditions and policies, but I want very specific
5 answers to all of these questions. So I'm going to continue
6 this hearing for -- I know that Judge Albregts has duty this
7 afternoon. Could you give me some idea, Mr. Miller, as to
8 when we can continue this hearing to? Or maybe you could tell
9 me how many arrests there are. Because if I can continue this
10 hearing for today, I would like to do so.

11 **COURTROOM ADMINISTRATOR:** Your Honor, I believe the
12 Honorable Judge Albregts is seeing two arrests this afternoon,
13 unless I'm mistaken. But I think that's the number.

14 **THE COURT:** All right. So we'll go ahead and do
15 this. We will all resume this hearing at let's plan for 3:45.
16 It may be the case that we start a little bit later. I'm
17 trying to start this hearing as soon as possible.

18 Mr. Carpenter, I'm going to ask you to be available.
19 I'm going to ask someone who can get specific answers
20 regarding both the high-risk unit, which is the BB cell, and
21 the G 4 dorm which is where Mr. Damato is currently at to be
22 available at that hearing as well.

23 **MARSHAL CARPENTER:** Yes, Your Honor. I'll contact
24 the facility and get one of the upper management to answer any
25 questions about his facility.

TRANSCRIBED FROM DIGITAL RECORDING

1 **THE COURT:** Yes. And I would also like to have
2 somebody answer questions regarding the policies and whether
3 it is mandatory to wear masks and gloves.

4 **MARSHAL CARPENTER:** This person should have all that
5 information, Your Honor.

6 **THE COURT:** All right. Wonderful.

7 So Ms. Levy, we will take this up again at 3:45.
8 Mr. Dickinson, are you available?

9 **MR. DICKINSON:** [Indiscernible] for the Court,
10 Your Honor.

11 **THE COURT:** Okay. Ms. Levy, are you available?

12 **MS. LEVY:** Yes. And, Your Honor, if I may just ask
13 my client if he could call me at about 1:30. I have another
14 court appearance that I'm actually late for. So I know
15 Mr. Damato wants to speak. So Mr. Damato, if you could call
16 me this afternoon before the hearing, please.

17 **THE DEFENDANT:** You got it. Sure. Thank you,
18 everyone.

19 **THE COURT:** All right. Miss -- Ms. Bustos and
20 everybody else from Pretrial, you are free to join back in,
21 all three of you, but at least one of you should be present
22 for the 3:45 hearing.

23 So, with that, we'll conclude this hearing, and we'll
24 take this back up at 3:45. Thank you, everyone.

25 **COURTROOM ADMINISTRATOR:** All rise.

TRANSCRIBED FROM DIGITAL RECORDING

1 *(Proceedings adjourned at 11:41 a.m.)*

2 * * *

3 I, AMBER M. McCLANE, court-appointed transcriber, certify
4 that the foregoing is a correct transcript transcribed from
5 the official electronic sound recording of the proceedings in
6 the above-entitled matter.

7
8 /s/ *Amber M. McClane* 4/27/2020
 AMBER MCCLANE, RPR, CRR, CCR #914 Date